

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

EJ MCELROY.

**Plaintiff,**

V.

S. GATES, *et al.*,

### Defendants.

No. 1:21-cv-00053-NONE-EPG (PC)

**ORDER DISMISSING ACTION DUE TO  
PLAINTIFF'S FAILURE TO COMPLY WITH  
A COURT ORDER AND FAILURE TO PAY  
FILING FEE**

(Doc. No. 6).

Plaintiff EJ McElroy is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 15, 2021, the assigned magistrate judge issued findings and recommendations recommending that plaintiff be required to pay the \$402 filing fee because he has previously suffered three strike dismissals of civil actions rendering him ineligible to proceed *in forma pauperis*. (Doc. No. 3.) On March 29, 2021, the undersigned adopted those findings and recommendations, denied plaintiff's subsequently filed motion to proceed *in forma pauperis*, and ordered plaintiff to pay the filing fee in full within thirty (30) days. (Doc. No. 6.) Plaintiff was cautioned that it was necessary to pay the required filing fee within the specified time should he desire to proceed with this action. (*Id.* at 2.)

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1 Plaintiff has not paid the required filing fee and the deadline to pay the required filing fee  
2 has now passed.

3 Accordingly,

- 4 1. This action is dismissed without prejudice due to plaintiff's failure to obey a court  
5 order and to pay the required filing fee; and  
6 2. The Clerk of the Court is directed to close this case.

7 IT IS SO ORDERED.

8 Dated: May 27, 2021

*Dale A. Drayd*  
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10 UNITED STATES DISTRICT JUDGE

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